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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,270	07/12/2000	William A. Cooper	11348.36US01	2127

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EXAMINER	
GREENE, DANIEL LAWSON	
ART UNIT	PAPER NUMBER
3694	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/614,270	COOPER, WILLIAM A.
	<b>Examiner</b>	<b>Art Unit</b>
	Daniel L. Greene Jr.	3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 July 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 45-66 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 45-66 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 45-66 are pending in the communication received 7/12/2006 entered as Response after Non-Final Action.

#### ***Response to Amendment***

2. Applicant's amendments to the Drawings and Specification have overcome the objections set forth in section 6 and 7 of the previous Office action mailed 3/9/2006. Accordingly, the Objections of said sections 6 and 7 are hereby withdrawn.

#### ***Response to Arguments***

3. Applicant's argument's, see page 11 last paragraph through page 12, paragraph 3 of the response received 7/12/2006, regarding sections 3-6 of the previous Office action mailed 3/9/2006 have been fully considered but are not persuasive.

4. Applicant argues that support for the claim limitation "consideration-bearing bank account" is found "...throughout the specification in discussions of various bank accounts. For example, bank accounts that provide consideration to the account holder such as savings and checking accounts, are discussed at page 4, lines 2-5." However a complete review of the specification, including page 4 lines 2-5 does not provide, or at least does not appear to provide said support.

It is not seen wherein the specification as filed includes the specific words "consideration-bearing bank account" nor where in the specification the exact

metes and bounds of the term “consideration-bearing bank account” are set forth. Page 4, line 2 states that the system is “for managing a financial institution account, such as a checking or savings account...”, Page 8 lines 18-19 set forth “...the present invention is directed to a deferred billing debit card system and method for managing an account at a financial institution.”, and Page 9 lines 19-20 set forth “the present systems and methods may be applied to financial institution accounts beyond checking accounts...”.

Again, nowhere does the specification set forth exactly what constitutes a “consideration-bearing bank account”. Accordingly the rejections in sections 3-6 of said previous Office action, regarding the limitation “consideration-bearing bank account” are maintained and incorporated herein.

Note that this limitation was rejected under both 35 U.S.C. 112 1<sup>st</sup> and 2<sup>nd</sup> paragraphs. While applicant has attempted to show where support in the specification may have been found (which the Examiner has refuted above), applicant failed to address sections 5 and 6 of said previous Office action, that is, applicant failed to point out and distinctly claim exactly what a “consideration-bearing bank account” is, entails or encompasses.

5. Applicant argues that support for the limitation “providing a time window” can be found in, for example, Figure 3 and the specification page 7, line 1 et seq. However a complete review of the specification, including page 7 et seq. does not provide, or at least does not appear to provide said support.

It is not seen wherein the specification as filed includes the specific words “providing a time window” nor where in the specification the exact metes and bounds of said limitation “providing a time window” are set forth. The specification appears to set forth a “payment period countdown”, “wherein said payment period is a period of fifteen days”, but the term “providing a time window” is NOT considered as connoting the same meaning as “payment period countdown”. This “same connotation of meaning” is apparent by applicant’s use of different terms in an attempt to describe what applicant considers the same thing.

Again, the Examiner can find NO SUPPORT in the specification for the exact metes and bounds of the limitation “providing a time window”. It is not considered that the limitation “providing a time window” connotes the same meaning as “payment period countdown” for AT LEAST the following reasons. The limitation payment period countdown appears to require a payment within a period that is being counted down, where in contradistinction the limitation “providing a time window” does not explicitly set forth a payment period OR a countdown, only a “time window”. That is, the limitation payment period countdown is more specific as to exactly what (i.e. payment) is being required.

Accordingly, the rejection in this regard, from section 4 of said previous Office action is maintained and incorporated herein.

If Applicant is of the opinion that the limitation “providing a time window” connotes the same meaning as “payment period countdown”, then Applicant

should amend all claims that include the limitation "providing a time window" by replacing said limitation with the limitation "payment period countdown".

6. Applicant argues that support for the limitation "a communication protocol" can be found in the specification page 6, line 28 through page 7, line 10 and "in one example the communication is provided using an Internet site".

A review of the specification appears to indicate support for communications between various systems and users **but does not disclose any specific "communication protocol"**. It is not seen wherein the specification as filed discloses the exact limitation "communication protocol" nor what all is encompassed and included in the term "communication protocol".

Because the specification does not specifically set forth the limitation "communication protocol", NOR does the specification set forth the metes and bounds of said term, the rejection is proper.

Accordingly, the rejection in this regard, from section 4 of said previous Office action is maintained and incorporated herein.

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Applicants arguments towards section 9 of said previous Office action mailed 3/9/2006 have been fully considered but are NOT persuasive. Accordingly said section 9 rejection is maintained and incorporated herein.

9. Regarding applicant's arguments towards section 9 of said previous Office action mailed 3/9/2006, Applicant's arguments are unpersuasive as applicant has not shown that the references do not teach what the examiner has stated they teach, nor has applicant shown that the examiner's reasoning for and manner of combining the teachings of the references is improper or invalid.

a. Regarding Applicant's arguments received 7/12/2006, page 12, fifth paragraph are not persuasive. Applicant argues that Bissonette does not teach monitoring a transaction balance of the user's consideration-bearing banking account.

Indeed, resort may be had to the explanation in section 4 above regarding the limitation "consideration-bearing banking account", in that there are no metes and bounds to said limitation. Therefore, given the broadest reasonable interpretation of the limitation "consideration-bearing banking account" the limitation does indeed read on Bissonette because although the claims are interpreted in light of the specification, limitations from the specification are NOT imported into the claims. The Examiner must give the claim language the broadest reasonable interpretation the claims allow.

**See MPEP 2111.01, which states**

While the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims **must be interpreted as broadly as their terms reasonably allow**. *In re American Academy of Science Tech Center*, F.3d, 2004 WL 1067528 (Fed. Cir. May 13, 2004)

Bissonette reads on the limitation “consideration-bearing banking account” because, as set forth in, for example, the Abstract of Bissonette, “The invention provides for the complete reconciliation of credit card transactions with bank records after the transaction occurs using the obligation function to capture the transaction before it occurs, even the transactions that are immediately paid.” This is considered as setting forth a banking account as well as consideration bearing upon it, that is, the consideration can AT LEAST be considered as the act of reconciliation. Since the reconciliation bears upon the bank account then Bissonette sets forth a “consideration-bearing banking account”.

b. Regarding applicants arguments on page 12, sixth paragraph, that the references fail to show certain features of applicant’s invention, it is noted that the features upon which applicant relies (i.e., that the claimed limitation is directed to a time window at the end of a billing cycle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

FURTHER, Fleischl Col. 4 line 67 through Col. 5 line 1, sets forth that the reconciliation is performed “preferably at the end of a billing period (or within a reasonable period thereafter)”. (Emphasis added) The limitation (or within a reasonable period thereafter) can be considered as reading on Applicant’s claimed limitation “providing a time window”

Please note that in the previous Office action the Examiner cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully reconsider the references in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Applicant is directed to Fleischl Col. 4 lines 65+ through Col. 5 line 8 wherein a time window for providing funds as well as a communication protocol implemented with the user during the time window is set forth. Clearly, the reconciliation cannot be performed without the user receiving a communication of some sort that such needs to be accomplished. Further, as set forth in, for example, at least Col. 5 lines 3-8 the transaction processor is debiting the interest bearing account (banking account) and crediting the credit card account.

Again, this could not be accomplished without some form of communication protocol.

***Conclusion***

10. It is noted that applicant relied heavily upon ONLY those portions of the references cited by the Examiner, however other passages apply. Applicant is again requested to fully consider the references in their entirety as potentially teaching all or part of the claimed invention.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DIG ~~LEZ~~  
2007-01-07

  
ELLA COLBERT  
PRIMARY EXAMINER